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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/007,523	12/03/2001	Neal Solomon		2580

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EXAMINER
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GREIMEL, JOCELYN

ART UNIT	PAPER NUMBER
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3693

MAIL DATE	DELIVERY MODE
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09/19/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/007,523

Applicant(s)

SOLOMON, NEAL

Examiner

Jocelyn Greimel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-46, 48-56 and 58-94 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-46, 48-56 and 58-94 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

This communication is in response to Applicant's Remarks filed 29 June 2007.

### ***Status of Claims***

Claims 1-46, 48-56 and 58-94 are pending. Claims 1, 29, 30, 33, 39, 41, 53, 68, 69, 79 and 93 are independent claims.

### ***Response to Arguments***

Applicant's arguments filed 29 June 2007 have been fully considered but they are not persuasive. Applicant's arguments regarding claim 1 include:

- a. The system of claim 1 is buyer initiated which removes the intermediary;
  - b. The system of claim 1 is a forum for continual refreshing of data that is then accessed by multiple buyers in real time - an interactive process over time,
- have been considered but are not persuasive. Therefore, the rejection of the claims remains as detailed in the first Office Action. Additionally, Applicant has failed to respond to the claim Objections and those objections are maintained.

Issue (a): Applicant's argue: the system of claim 1 is buyer initiated, which removes the intermediary.

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Response: The Examiner is entitled to give the claim limitations their broadest reasonable interpretation in light of the Specification (see below):

Claim Interpretation; Broadest Reasonable Interpretation:

**<CLAIMS MUST BE GIVEN THEIR BROADEST REASONABLE INTERPRETATION**

During patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541, 550-51 (CCPA 1969).>

Ogasawara does disclose a system that is buyer initiated, and which removes the intermediary. The system of Ogasawara begins with the customer requesting an item to the ESA system. The ESA system is the computer process which links the request and the seller, it is not a third-party merchant. Under the broadest reasonable interpretation of Applicant's claim 1, the request begins with the purchaser creating a preprogrammed goal, which is then processed by the inter-agents (which can be seen as a buyer-initiated process utilizing intermediaries).

Conclusion: Under their broadest reasonable interpretation in light of the Specification, claim 1 is taught by Ogasawara.

Issue (b): Applicant's argue: the system of claim 1 is a forum for continual refreshing of data that is then accessed by multiple buyers in real time - an interactive process over time.

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Response: In response to applicant's argument that the references fail to show the above features of applicant's invention, it is noted that the features upon which applicant relies (i.e., refreshing of the database and real time updates) are not recited in the rejected claim(s)).

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Additionally, the Examiner is entitled to give the claim limitations their broadest reasonable interpretation in light of the Specification (as detailed above).

Ogasawara discloses a system which "presents information regarding products and services via a network of computers" utilizing "a plurality of market databases" which is used for "mining data." Additionally, the seller's inter-agent generates a showcase which is displayed on the user's interface. The language that Applicant's argue claim 1 employs (ie: is a forum for continual refreshing of data that is then accessed by multiple buyers in real time - an interactive process over time), the Examiner notes claim 1 fails to show these features.

Conclusion: Under their broadest reasonable interpretation in light of the Specification, the claims are taught by Ogasawara.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-28, 29, 42-43, 59-67, 68, 89-92, 93-94 and 95 are rejected under 35 U.S.C. 102(b) as being anticipated by Ogasawara (US Pat. No. 6,868,392 B1).** In reference to claim 1, Ogasawara discloses a method, system and computer program for presenting information regarding products and services via a network of computers comprising:

- a plurality of market databases registered with a cooperative communications network (col. 4, lines 21-34),
- an analytical agent for mining data related to a selected item from at least one of said plurality of market databases, said analytical agent further for generating a subset of data that most closely meets a preprogrammed goal (col. 4, lines 21-34),
- at least one of a seller's inter-agents in communication with said analytical agent for receiving said subset of data (col. 4, lines 21-46),

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- said at least one of a seller's inter-agents for generating at least one showcase database based on said subset of data responsive to a set of seller's sales objectives, each showcase registered with a cooperative communications network (col. 4, lines 21-46), and
- a user interface for displaying information derived from said showcase database (col. 4, line 20 – col. 5, line 31),
- market databases related to an industry,
  - mining data comprises constantly monitoring the plurality of market databases, and generating an updated subset of data responsive to any change in the market databases,
  - at least one seller's inter-agent regenerates said at least one showcase database in response to said updated subset of data (col. 5, lines 38-55),
- a plurality of showcase databases commonly related to an industry;
  - showcase databases are registered with a UDDI register,
  - showcase databases employ a common extensible markup language (col. 7, lines 1-64),
- at least one buyer's intelligent negotiation agent for receiving information from said showcase database regarding said selected item,

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- at least on buyer's commercial search agent for searching said at least one showcase databases for information regarding the selected item,
- at least one buyer's intelligent negotiation agent, and at least one intelligent seller's negotiation agent in communication with said at least one buyer's intelligent negotiation agent, wherein when said at least one buyer's intelligent negotiation agent requests a bid for sale of said selected item, at least two of said seller's intelligent negotiation agents submit that bid to said at least one buyer's intelligent negotiation agent (col. 4, lines 21-46),
- preprogrammed goal comprises a set of buyer's specifications for a selected item, said item being one of a plurality of individual product items and individual service items (col. 5-6),
- preprogrammed goal comprises a set of seller's sales objectives (col. 5-6),
- the analysis is performed by selecting one of a plurality of evolutionary computation resources comprising genetic algorithms, genetic programming, neural networks, constantly monitoring the market data and generates the subset of data anew for any changing in the market data and the inter-agent generates a showcase database responsive to any change in the subset of data including a discounted price for an item, an option to upgrade features of a selected item, include

additional services related to the item, a quantity discount for the item, financing for the item, warranties, insurance, proximity marketing discount, yield management promotion, a plurality showcase databases registered with a cooperative communications network for a common sales objective and each having a data set dedicated to the common sales objective, and comprises an object relational database (col. 6, line 8 – col. 8, line 19).

6. In reference to claims 30-31, 33-38 and 39-40, Ogasawara discloses a system, method and computer program for creating a seller's showcase database, which is accessible over a network of computers, comprising:

- obtaining market data related to a selected item from a market, said item being one of a product item or service item (col. 9, line 19 – col. 10, line 60),
- analyzing said market data for conformity to a set of seller's sales objectives (col. 9, line 19 – col. 10, line 60),
- filtering said market data to create a seller showcase database reflecting the most favorable terms for sale of said selected item by said seller given said market data (col. 9, line 19 – col. 10, line 60),
- and constantly updating the seller showcase database with each change in the market data (col. 9, line 19 – col. 10, line 60).

7. In reference to claims 41, 44-46, 48-52, 53-56 and 58, Ogasawara discloses a method, system and computer program for analysis of data, the data resident in a distributed computing network of sellers' commercial databases comprising:

- at least one of a plurality of intelligent analytical agents, said analytical agent for mining data related to a selected item from at least one of a plurality of market databases, said item one of a product item or service item, and said analytical agent for generating a subset of data that most closely meets a goal,
- where analysis is case-based reasoning, rule-based reasoning, uses neural networks, uses genetic programming; a suite of artificial intelligence program resources accessible by the intelligent analytical agent and selects an artificial intelligence resource for optimal performance using genetic programming or genetic algorithms or neural networks (col. 8, line 50 – col. 12, line 60).

8. In reference to claims 69-78 and 79-88, Ogasawara discloses a method, system and computer program for automated collaborative filtering using a computer that communicates over a distributed network comprising:

- at least one seller's analytical agent (col. 7, line 8-64),

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- at least one buyer's commercial search agent in communication with said seller's analytical agent, wherein, when said commercial search agent transmits to said at least one seller's analytical agent a request by a buyer for information on a selected item, said item one of a plurality of product items and service items, said seller's analytical agent mines data related to said selected item from at least one of a plurality of market databases, filters said data against a profile of said buyer to prepare a list of at least one of a plurality of recommended items, and transmits to said buyer's commercial search agent said list of recommended items (col. 8, line 50 – col. 10, line 31)
- the filters of data comprise ranking each of the at least one of a plurality of recommended items consistent with the buyer's profile, item type, popularity, buyer's region, item quality, services related to the item, bundled items, quantity of items and item price (col. 10, line 8 – col. 11, line 64).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Lin (US Patent No. 6,38,597 B1).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

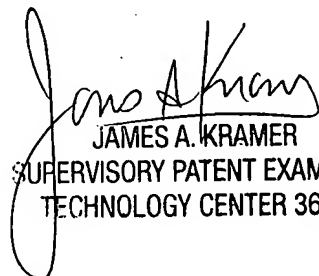
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jocelyn Greimel whose telephone number is (571) 272-3734. The examiner can normally be reached on Monday - Friday 8:30 AM - 4:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jocelyn Greimel  
Examiner, Art Unit 3693  
September 14, 2007

 9-17-07  
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